

**MEMO ENDORSED**

LAW OFFICES OF  
**DANIEL A. MCGUINNESS, P.C.**

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October 10, 2023

**VIA ECF**

Hon. Valerie Caproni  
United States District Court  
40 Foley Square, Room 240  
New York, NY 10007

USDC SDNY  
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**Re: *Benthos Masters Fund, LTD. V. Aaron Etra*, 20-cv-3384 (VEC)**

Dear Judge Caproni,

I represent Aaron Etra in the above-captioned matter for the limited purposes stated in the Court's Order dated April 17, 2023 (Dkt. 322). I write in response to Petitioner's letter motion dated October 5, 2023 seeking an Order directing delivery of Mr. Etra's hard drive that is in my possession (Dkt. 385) and the Court's Order that issued earlier today (Dkt. 386). Prior to receiving today's Order, Mr. Etra indicated to me via Corrlinks this morning that he wishes to assert his Fifth Amendment privilege as to that drive. As such and for the reasons stated below, I respectfully request the Court stay its Order and allow 14-days for me review and discuss with Mr. Etra the contents of the drive and how they came to be in his prior attorney's possession; and, if appropriate, file an opposition to Petitioner's motion based upon Mr. Etra's Fifth Amendment privilege.

Based on a review of the record, Petitioner's October 5, 2023 motion appears to be the first application by Petitioner for a device of Etra's other than his personal computer and cellphone(s). *See* Dkt. 209 at 2 (requesting a forensic examination of Etra's "computer and cellphone(s)"). Each of the resulting Court Orders solely addressed Mr. Etra surrendering those specific devices. *See* Dkt. 260, 263, 371, 379, 382. It is unclear to me at this time why the hard drive was turned over to his previous attorney and came to be in my possession. As such, I am not in a position presently to advise Respondent of the propriety of the assertion of the privilege. I am requesting 14-days to review and discuss the contents of the drive with Mr. Etra, and to file an Opposition if appropriate.

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I thank the Court in advance for its attention to this matter.

Sincerely,



Daniel A. McGuinness

Cc: All counsel (via ECF)  
Aaron Etra (via regular mail)

Application GRANTED. The deadline for Mr. McGuinness to turn over the 2TB hard drive found in the backpack containing Mr. Etra's electronic devices is stayed until **Thursday, October 26, 2023**.

Not later than **Thursday, October 26, 2023**, Mr. Etra must either (a) file an opposition to Benthos' request for an order requiring Mr. McGuinness to produce the hard drive, or (b) produce the hard drive to Benthos in accordance with the Court's October 10, 2023, order at Dkt. 386. Mr. Etra is reminded that the Court already held that a forensic examination of electronic devices already turned over to counsel not for the purpose of obtaining any legal advice does not violate his rights under the Fifth Amendment. *See* Opinion and Order, Dkt. 337 at 34–37.

SO ORDERED.



10/11/2023

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE